

REMARKS/ARGUMENTS

The Office Action dated November 27, 2006 has been carefully reviewed.

Claims 34-35 and 37-40 are pending in the application.

Claims 34-35 and 37-40 stand rejected under 35 USC 102(b) as being anticipated by Kaschel.

Kaschel is directed to a sealable laminated film containing a copolymer layer consisting of ethylene and alpha-olefin and polymerized with metallocene catalysts. Importantly, the melt index MFR is from 0.5 to 10 g/10 min. This film may be adhered to two or more thermoplastic layers such as LDPE and LLDPE.

In the background, it is recognized by Kaschel that ethylenic copolymer compositions were known in the art that contain a melt index between 0.1 and 30 g/10 min (EP 0572034), but Kaschel does not suggest that this composition was used in multi-layer film structures. Kaschel merely recognizes that such compositions existed. This can not be an anticipatory teaching because there is no teaching of using this composition in the later-described (and claimed) multi-layer structure. (It is true that a reference can be used for all that it teaches – but Kaschel does not teach a copolymer containing a melt index between 0.1 and 30 g/10 min in a multi-layered structure).

It is important in the instant claims that the third layer comprising a single site catalyzed polyethylene has a melt index above about 10 g/10 min. The Examiner considers the 0.5 to 10 g/10 min of Kaschel to overlap with the “above about 10 g/min.” However, the examples provided by Kaschel describe specific melt flow indexes of this polymer to be 1 g/ 10 min. See Table 2. Thus Kaschel teaches away from higher melt index values. Kaschel does not direct one skilled in the art to melt index’s above 10 g/10 min.

However, even if such overlap exists, Kaschel does not teach that the third layer has a higher melt index than the second layer as required by the instant claims. Kaschel does not recognize any relationship between these two layers and hence does not direct one skilled in the art to the instant claims. This is evident by the example structures provided by Kaschel.

Table 1 shows some possible multi-layered structures. Layer 2 (adjacent the metallocene catalyzed layer 1) may be, for example, LDPE and LLPDE-1 (see nos. 3 and 4). Turning to Table 2, LDPE-1 and LLDPE-1 both have melt indexes *higher than* the most of the other

polymers listed, e.g. LDPE, LLDPE, have higher melt index than the MPE of layer 1. Clearly, Kaschel does not direct one skilled in the art to both a melt index above 10 g/10 min and a melt index of the metallocene catalyzed layer higher than the adjacent layer.

Moreover, as set forth in the instant specification, the melt indexes are important in the instant invention to select the layers to obtain a co-extruded product. Kaschel describes several ways of preparing its films and considers melting points to be important in selecting the appropriate films. None of Kaschel's examples remotely suggest the multi-layer structure of the instant claims.

One skilled in the art, from a fair reading of Kaschel, would not provide a co-extruded three layer film wherein the third layer has a melt index above about 10 g/10 min and the low density polyethylene of the second layer has a melt index lower than a melt index of the single site catalyzed polyethylene of the third layer. Withdrawal of the instant rejection is requested.

CONCLUSION

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the Examiner is requested to contact the undersigned at (202) 824-3127.

The fee for a two-month extension of time accompanies this Response. However, if any additional fees are owed, the Commissioner is authorized to charge said fees to Deposit Account 19-0733.

Respectfully submitted,

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